

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GOVERNMENT EMPLOYMENT
INSURANCE CO., GEICO INDEMNITY CO.,
GEICO GENERAL INSURANCE CO., and
GEICO CASUALTY CO.

Plaintiffs,

-against-

NORTHERN MEDICAL CARE, P.C., OMAR
F. AHMED, M.D., RESTORALIGN
CHIROPRACTIC, P.C., DAVID S.
KRASNER, D.C., WEI DAO
ACUPUNCTURE, P.C. BORUCH LAOSAN,
INC., IGOR MAYZENBERG, L.Ac., and
QUEENS CORONA MEDICAL, PC,

Defendants.

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MEMORANDUM AND ORDER

Case No. 1:20-cv-01214-FB-LB

BLOCK, Senior District Judge:

On November 3, 2021, Magistrate Judge Lois Bloom issued a Report and Recommendation (“R&R”), recommending that the pending motion for contempt against Uldis Livzemnieks (“Livzemnieks”) be granted. *See* ECF No. 83 at 1. Judge Bloom correctly noted that under the Federal Rules of Civil Procedure, the Court issuing a subpoena “may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena,” and that this rule also applies to non-parties, such as Livzemnieks. Fed. R. Civ. P. 45(g). Livzemnieks was served

with a subpoena and failed to appear for his scheduled deposition. ECF 81-1 ¶¶ 4-5. He subsequently failed to comply with the court's order to compel Livzemnieks to comply with the subpoena and did not appear for a re-scheduled deposition. ECF 74. The R&R stated that failure to object within fourteen days of the date of the R&R would preclude further review. No objections were filed.

If clear notice has been given of the consequences of failing to object and there are no objections, the Court may adopt the R&R without de novo review. *See Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) ("Where parties receive clear notice of the consequences, failure to timely object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision.") (internal citations omitted). The Court will excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). No such error appears in Magistrate Judge Bloom's thorough and well-written decision. Accordingly, the Court adopts the R&R. The motion for contempt is granted.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
December 29, 2021